

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

TIMOTHY HANSON  
8051 Terry Street  
Philadelphia, PA 19136

(b) County of Residence of First Listed Plaintiff Philadelphia  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Jack Meyerson, Esq.  
Meyerson & O'Neill  
1700 Market Street, Suite 3025, Philadelphia, PA 19103

**DEFENDANTS**

HARTFORD LIFE AND ACCIDENT INSURANCE  
200 Hopmeadow Street  
Simsbury, CT 06089

County of Residence of First Listed Defendant Hartford, CT  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input checked="" type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

29 U.S.C. § 1132 (a) (1) (B)

Brief description of cause:

Wrongful denial of benefits

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ Excess of \$750,000 CHECK YES only if demanded in complaint:  
JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

November 19, 2010

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

## UNITED STATES DISTRICT COURT

**FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM** to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: Timothy Hanson- 8051 Terry Street, Philadelphia, PA, 19136

Address of Defendant: Hartford Life and Accident Insurance- 200 Hopmeadow Street, Simsbury, CT 06089

Place of Accident, Incident or Transaction: Philadelphia, Pennsylvania

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: \_\_\_\_\_ Judge: \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes ☐ No ☒

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

B. Diversity Jurisdiction Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts

1. ☐ Insurance Contract and Other Contracts

2. ☐ FELA

2. ☐ Airplane Personal Injury

3. ☐ Jones Act-Personal Injury

3. ☐ Assault, Defamation

4. ☐ Antitrust

4. ☐ Marine Personal Injury

5. ☐ Patent

5. ☐ Motor Vehicle Personal Injury

6. ☐ Labor-Management Relations

6. ☐ Other Personal Injury (Please specify)

7. ☐ Civil Rights

7. ☐ Products Liability

8. ☐ Habeas Corpus

8. ☐ Products Liability — Asbestos

9. ☐ Securities Act(s) Cases

9. ☐ All other Diversity Cases

10. ☐ Social Security Review Cases

(Please specify)

11. ☒ All other Federal Question Cases: ERISA

(Please specify)

### ARBITRATION CERTIFICATION

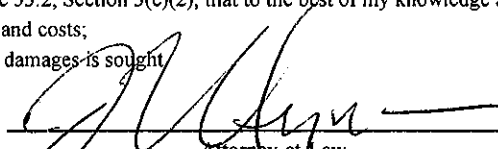
(Check Appropriate Category)

I, Jack Meyerson counsel of record do hereby certify:

X Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

X Relief other than monetary damages is sought

DATE: November 19, 2010

  
Attorney-at-Law

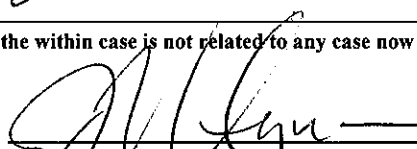
16405

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: November 19, 2010

  
Attorney-at-Law

16405

Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

Timothy Hanson	:	CIVIL ACTION
	:	
v.	:	
	:	
Hartford Life and Accident Insurance	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ( X )

**November 19, 2010**  
**Date**

**Jack Meyerson**  
**Attorney-at-law**

**Plaintiff**  
**Attorney for**

**(215) 972-1376**  
**Telephone**

**(215) 972-0277**  
**FAX Number**

**JMeyerson@meyersonlawfirm.com**  
**E-Mail Address**

**(Civ. 660) 10/02**

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

TIMOTHY HANSON  
8051 Terry Street  
Philadelphia, PA 19136

Plaintiff

v.

HARTFORD LIFE AND  
ACCIDENT INSURANCE CO.  
200 Hopmeadow Street  
Simsbury, CT 06089

Defendants

CIVIL ACTION NO.

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff, Timothy Hanson, through his undersigned attorneys for his complaint against defendants alleges as follows:

**NATURE OF THE ACTION**

1. This action seeks the restoration of Plaintiff's Long Term Disability (LTD) benefits, including the life insurance policy attached thereto, as well as compensation for the lapse in coverage that occurred when Plaintiff's benefits were wrongfully terminated on July 31, 2008.

2. On January 31, 2006, Plaintiff's employer, Cardinal Health, terminated his employment upon a determination that that Mr. Hanson was physically unable to work due to recurring hospitalizations for pneumonia. Plaintiff was approved for, and received, disability benefits through his employee benefits plan, administered by The Hartford Accident and Insurance Company (Hartford) for a period ending July 31, 2008.

3. Pursuant to the Hartford policy, in order to continue receiving LTD after the initial period of approval, the claimant must show that he is unable to work in any profession for which he possesses the necessary skills, experience, or training.

4. On June 30, 2008, Plaintiff was informed that he would not be eligible for continuing LTD based on Defendants' determination that he was able to perform sedentary work.

5. Under the definition provided by the Hartford policy, the ability to perform sedentary work requires the claimant to be able to sit for eight hours a day, stand and walk occasionally, and push, pull, or carry up to ten pounds.

6. Plaintiff exhausted all administrative remedies in appealing Defendants' decision to terminate his benefits, but his appeal was ultimately denied in a letter dated November 14, 2008.

7. Defendants' decision to terminate Plaintiff's LTD amounts to an abuse of discretion under the Employee Retirement Income Security Act (ERISA), and Plaintiff seeks (1) the reinstatement of his LTD, retroactive to August 1, 2008 with interest, and continuing forward until Plaintiff reaches retirement age, (2) the restoration of the \$300,000 life insurance policy attached to Plaintiff's LTD benefits, (3) a declaration that Defendants' conduct was a violation of ERISA, (4) an injunction barring Defendants from engaging in any further conduct prohibited by

ERISA, (5) payment of reasonable attorney's fees pursuant to 29 U.S.C. §1132(g) for costs incurred in this action and (6) further relief as the Court deems appropriate.

### **PARTIES**

8. Plaintiff Timothy Hanson is 47 years of age and resides at 8051 Terry Street, Philadelphia, PA 19136. Plaintiff was hired by Cardinal Health Inc., located in Philadelphia, Pennsylvania, as a Technical Support Analyst. Cardinal Health has since been acquired by Catalent Pharma Solutions.

9. Defendant Hartford Life and Accident Insurance Company is a subsidiary of Hartford Life, the life insurance division of The Hartford Financial Services Group, is incorporated and headquartered in Connecticut, and is located at 200 Hopmeadow Street, Simbury, Connecticut 06089. At all times relevant hereto, Hartford administered the health and welfare benefits provided to employees of Cardinal Health, including the LTD policy that covered Plaintiff.

### **JURISDICTION**

10. Jurisdiction is expressly vested in this Court by 29 U.S.C. §1132(e)(1), and, alternatively, this Court has diversity jurisdiction under 28 U.S.C. §1332 as this is a civil action amongst citizens of different states and the amount in controversy exceeds \$75,000.

### **VENUE**

11. Venue is proper in the Eastern District of Pennsylvania under 29 U.S.C.

§1132(e)(1) inasmuch as the breach occurred in this judicial district and Defendants do substantial business in the state of Pennsylvania.

### **OPERATIVE FACTS**

12. Plaintiff was hired by Cardinal Health as a Technical Support Analyst in November, 1997, and remained in that position until January, 2006, when his employment was terminated on account of disability.

13. Plaintiff was then approved for LTD from January 31, 2006 through July 31, 2008. Additionally, Plaintiff was approved for permanent Social Security Disability in October of 2006.

14. The initial determination that Plaintiff was disabled and unable to return to work followed a four month hospitalization for pneumonia which required that Plaintiff be put in a coma to stabilize his respiratory and circulatory systems.

15. The hospitalization left Plaintiff in a wheelchair, devoid of upper body strength, and breathing through a tracheal tube that would remain in place for nearly two years. Plaintiff also contracted a gangrene infection that would ultimately lead to the amputation of the toes on his right foot.

16. Underlying Plaintiff's disability are diagnoses of diabetes, deep vein thrombosis, and tracheomalacia, as well as the 2004 above-the-knee amputation of his left leg and the continuing effects of a severe spinal injury caused by a 1984 car accident.

17. From 2004 through 2006 Plaintiff used a prosthetic leg but the amputation of the toes on his remaining foot left him unable to use the device.

18. Plaintiff now relies on a wheelchair or crutches, which he can only use for brief

intervals, to maneuver around his home to accomplish basic tasks, such as using the bathroom and eating meals with his family.

19. From January, 2006 onward, Plaintiff's condition has steadily deteriorated, and by the time Defendants completed their review of Plaintiff's eligibility for LTD, Plaintiff had been hospitalized several times for causes including but not limited to: the amputation of the toes on his right foot, osteomyelitis with ulceration of the fifth metatarsal, debridement of his amputation sites, obstruction of the tracheal tube, performance of a cholecystectomy, and an adverse drug reaction leading to anaphylactic shock.

20. Plaintiff has suffered recurring vascular difficulties relating to deep vein thrombosis and has undergone between ten and twelve angioplasties as well as five vascular bypasses in his right leg.

21. During the period of Plaintiff's LTD, Plaintiff was prescribed a lengthy list of medicines, including but not limited to Humulin, Lisinopril, Restorin, Coumadin, Warfarin, insulin, Percocet, and Keflex.

22. Plaintiff's tracheomalacia has caused significant respiratory problems and, in addition to causing Plaintiff to require oxygen tanks to facilitate breathing, Plaintiff has been hospitalized on three occasions for pneumonia since January, 2006.

23. On June 30, 2008, Plaintiff received a letter from Defendant explaining that his LTD would be terminated on July 31, 2008, and further explaining that Plaintiff has a right to appeal the determination of ineligibility.

24. On September 12, 2008, Plaintiff appealed the determination of ineligibility through a letter to Defendant detailing his continuing difficulties with the amputation sites on his



right foot and further explaining that he was hardly able to stand, let alone walk, that the pain associated with his amputations was getting worse, that he had developed significant problems with his shoulder and wrist such that he could not lift his right arm above a right angle, and that his mental state had been shattered by dealing with constant and severe pain.

25. On September 23, 2008, Plaintiff received a letter from Defendant informing him that his appeal was being sent to Hartford Appeal Specialist Debra McGee and that he could expect a final determination within 45 days. Hartford then sent Plaintiff's file to MES Solutions (MESS) and its agent, Dr. Fabricio Alarcon for review.

26. On October 26, 2008, Plaintiff sent a letter to Defendant explaining that he had been out of touch because he was hospitalized for a week earlier that month for the purpose of removing infected bone in his right foot. However, doctors were unable to complete the intended surgery due to patient's extreme circulatory problems. Instead, Plaintiff underwent another revascularization procedure on his right leg.

27. Plaintiff's appeal further imparted to Defendants that Plaintiff was in a wheelchair, a condition which caused him considerable anguish because it was very painful to sit upright. Plaintiff's description of his inability to stand or sit upright obviously demonstrates his inability to perform sedentary work, as it is defined by the Hartford policy.

28. Plaintiff's appeal also noted that he was required to go to the hospital twice a day for an antibiotics IV, but that he lacked the physical and mental strength to continue the visits.

29. Despite Plaintiff's myriad health difficulties stemming from diabetes, deep vein thrombosis, and tracheomalacia, and the fact that Plaintiff informed Hartford of his constant

severe pain, inability to stand, inability to raise his right arm, and his inability to sit in the same position for an extended period of time, on November 14, 2008, Defendant Hartford arbitrarily found that Plaintiff was able to return to work in a sedentary occupation and referenced a cursory report provided by MESS and Alarcon as evidence for this determination.

30. The determination that Plaintiff could work in a sedentary occupation was arbitrary and capricious and not supported by substantial evidence.

31. At the time of Defendants' determination of ineligibility, Plaintiff was unable to work due to constant fatigue, the inability to lift or push ten pounds, the inability to stand, the inability to sit in one place for an extended period of time, the inability to raise his right arm, the inability to travel to a place of employment, and the inability to properly focus due to his constant, severe pain.

32. In reaching its determination, Defendant relied heavily on brief, inconclusive statements from two of Plaintiff's physicians while substantially ignoring Plaintiff's in-depth narrative and pictorial account of his struggles with his various disabilities.

33. The statements relied upon by Defendant were based upon outdated information rather than current medical evaluations, as it took several months and multiple requests before Plaintiff's doctors provided their reports.

34. Defendants did not receive reports from all of Plaintiff's physicians, and did not even attempt to seek a psychological evaluation, despite Plaintiff's repeated assertions that he was severely depressed and history of treating with a psychiatrist.

35. Dr. Fabricio Alarcon, whose review was relied upon as dispositive by Hartford, never saw nor treated Plaintiff, and his report does not cite any affirmative evidence that Plaintiff

was able to exert ten pounds of force. The ability to exert ten pounds of force is a threshold requirement for the ability to perform sedentary work.

36. Defendants purported to base their finding of ineligibility for LTD on records received from four of Plaintiff's physicians: Drs. Carpenter (vascular surgeon), Cooper (thoracic, pulmonary specialist), Geltzer (podiatry), and Stuttman (family practitioner). However, according to Defendant Hartford's own documents, Dr. Carpenter never submitted a functionality review, Dr. Stuttman disavowed his ability to comment on Plaintiff's functionality because he had not examined the patient in several months, and Dr. Cooper noted only that Plaintiff was not restricted from a pulmonary perspective, contingent upon a strong recovery from current treatments, and that Defendant should speak with Plaintiff's vascular surgeon and Primary Care Physician for a fuller portrait. Defendant never received information from Plaintiff's vascular surgeon, Dr. Carpenter.

37. Defendants' determination of ineligibility is based exclusively on the fact that Dr. Geltzer checked the box next to "sedentary work" on the form sent to him by Defendant Hartford, the definition of which is unclear and insufficient for the purposes of determining Plaintiff's ability to work.

38. Defendants' review of Plaintiff's case was cursory and inadequate, and ignored the obvious evidence that Plaintiff was entitled to continuing LTD.

39. An adequate review of Plaintiff's case would have revealed definitive evidence of Plaintiff's disability and eligibility for LTD.

40. Prior to the filing of this action, Plaintiff exhausted all available administrative remedies and attempted to settle the matter under the terms of Defendants' plan.

41. A copy of this Complaint will be served upon the Secretary of Labor and the Secretary of the Treasury by certified mail as required by Section 502(h) of ERISA, 29 U.S.C. §1132(h).

### **COUNT I - WRONGFUL DENIAL OF BENEFITS**

#### *Section 502(a)(1)(B) of ERISA, 29 U.S.C. §1132(a)(1)(B)*

42. Plaintiff incorporates the averments of Paragraphs 1 - 41 as if they were set forth here in their entirety.

43. Plaintiff is a beneficiary of an employee welfare benefits plan as defined by ERISA.

44. Defendant was charged with administering the terms of the aforesaid employee welfare benefits plan.

45. Defendant and its agents administered the plan under a conflict of interest because it had authority to terminate Plaintiff's benefits and was in a position to realize financial gains from doing so.

46. Defendant wrongfully, arbitrarily, and capriciously terminated Plaintiff's LTD after relying upon insufficient evidence, ignoring superior countervailing evidence, and generally evincing an eagerness to drop Plaintiff from the plan.

47. **Wherefore**, Plaintiff requests the following relief:

- (a) Judgment against Defendants awarding Plaintiff payment of LTD retroactive to July 31, 2008 with interest;
- (b) The reinstatement of Plaintiff's LTD, life insurance, and all other benefits

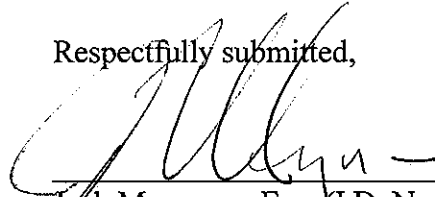
attached thereto until he reaches retirement age;

- (c) An award of reasonable attorney's fees and costs incurred in the prosecution of this action;
- (d) A declaration that Defendants conduct was a violation of ERISA;
- (e) An order barring Defendants from engaging in further activity barred by ERISA; and
- (e) Such other and further relief as the Court may deem equitable and just.

#### **JURY DEMAND**

Plaintiffs hereby demand a jury trial for all issues so triable.

Respectfully submitted,



Jack Meyerson, Esq. (I.D. No. 16405)

Matthew Miller, Esq. (I.D. No. 309791)

Meyerson & O'Neill

1700 Market Street, Suite 3025

Philadelphia, PA 19103

Attorneys for Plaintiff, Timothy Hanson

Dated: November 19, 2010